

In the Matter of Merchant Mariner's Document Z-85932-D3
Issued to: HENRY MAZURKIEWICZ

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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HENRY MAZURKIEWICZ

This appeal has been taken in compliance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

On 30 and 31 August, 1949, Appellant appeared before an Examiner of the United States Coast Guard at Philadelphia, Pennsylvania, to answer a charge of "misconduct" supported by four specifications. The specifications allege that while Appellant was serving as an able seaman on board the American SS JAMES ROY WELLS, under authority of Merchant Mariner's Document No. Z-85932-D3, he did, on or about 9 February, 1948, while the ship was at sea:

"First Specification: **** fail to perform your duties by reason of intoxication.

"Second Specification: **** assault a crew-member of said vessel with a dangerous weapon, to wit: a fire axe.

"Third Specification: **** attempt to commit suicide.

"Fourth Specification: **** assault one Sundry de Febo, a crew-member of the vessel, with a dangerous weapon, to wit: a knife."

At the hearing, Appellant was duly informed as to the nature of the proceeding, the rights to which he was entitled and the possible outcomes of the hearing. Appellant voluntarily waived his right to representation by counsel, stating that he desired to present his own case. He pleaded "Guilty" to the specifications and charge and after the Investigating Officer had completed his opening statement, Appellant was afforded the opportunity to present any and all mitigating circumstances believed to be material. At the conclusion of the hearing, the Examiner found the four specifications and charge "proved by plea" and entered an order revoking Appellant's Merchant Mariner's Document and all other valid licenses, or certificates of service held by him.

The appeal consists of a request for clemency based primarily on the statement by Appellant that he committed the offenses while under the influence of intoxicants; he had no intention of committing these acts and they were done without any malice or premeditation, and he has not indulged in any alcoholic liquor since that time. Appellant also states that the revocation order is too severe because, although he has a record of previous offenses, they were not offenses of a serious nature.

Appellant was examined on 19 August, 1949, by a doctor of the United States Public Health Service and was found physically and mentally fit for sea duty.

Appellant's document was suspended on 12 January, 1945, for one month on six months probation for possession of a dangerous weapon and theft. His document was suspended in 1943 for two months from 20 December for insubordination and for being AWOL. His record also includes two admonitions in 1944 for possession of a dangerous weapon and for being AWOL.

FINDING OF FACT

On or about 9 February, 1948, Appellant was serving as a member of the crew in the capacity of able seaman on board the American SS JAMES ROY WELLS, under authority of Merchant Mariner's Document No. Z-85932-D3, while the ship was at sea. He had been drinking liquor, shaving lotion and hair tonic for a period of nine or ten days and, consequently, he was under the influence of alcohol on 9 February, 1948. On this date, he entered the ship's galley with a fire axe and attacked the chief cook without provocation. The chief cook got under the fuel oil tank to escape being hit with the blade of the axe but he was hit in the face with the handle of the axe. Appellant acted as though he was out of his mind.

After attacking the chief cook, Appellant went to his room and forced his roommate Sundy de Febo from the room by threatening him with a knife and stating that he was going to commit suicide. He then locked himself in the room. The chief officer, the purser, and the captain came to the room. They found the door locked, but observed through the porthole that the person charged was attempting to cut his throat with a knife. They then forced the door in the room. During this interval the person charged had slashed his throat in the vicinity of the jugular vein and was bleeding profusely. The master, chief mate, and purser attempted to subdue him, but were unable to do so because of his maniacal strength. The person charged broke away, recovered the knife, and forced the master, chief mate and the purser to the door by lunging at them with the knife. The person charged then proceeded to saw away at his throat in an effort to complete his suicidal intention. In order to subdue the person charged and to prevent him from doing further injury to himself, which would probably have resulted in death, the master shot the person charged in the arm. The person charged fell to the deck and offered no further resistance. He was then given sedatives and medical attention. For the rest of the voyage he was kept under guard until he could be taken to a hospital at Istanbul, Turkey.

On the 11th of May, 1949, Mazurkiewicz, having been repatriated, voluntarily surrendered his document until such time as he was able to produce a certificate of the U.S. Public Health Service that his condition was improved, and he was fit to return to sea duty. Having obtained that certificate from Ellis Island, he had requested his document back and agreed to a hearing on charges and specifications which had been preferred against him on 11 May, 1948 in New York.

OPINION

Appellant admitted, by his unqualified plea of "guilty" to each of the specifications, that he was entirely at fault for having committed the offenses alleged. He has not attempted to justify his actions but he requested in his appeal that his Merchant Mariner's document be returned to him because of the fact that he had completely lost control of his mental faculties at the time of the offenses and he has no intentions of again drinking alcoholic liquor.

In view of the statutory obligation imposed upon the Coast Guard to take appropriate action against seamen's documents when deemed necessary to maintain safety on the high seas, the order of revocation must be sustained. The serious nature of the acts committed, coupled with the possibility of a recurrence, require this course of action to be followed. The reasons for this are more fully set out in the decision of the Examiner.

CONCLUSION AND ORDER

The order of the Examiner dated 31 August, 1949, should be, and it is, **AFFIRMED**.

J.F. FARLEY
Admiral, United States Coast Guard
Commandant

Dated at Washington, D.C. this 21st day of November, 1949.